IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

Crl.MC.No. 248 of 2007()

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CC.543/2004 of JUDL.MAGISTRATE OF FIRST CLASS, NADAPURAM

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PETITIONER:

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RAYEES, S/O. USMAN,
PUTHIYOTHUMKANDIYIL HOUSE,
NADAPURAM AMSOM AND DESOM,
VADAKARA TALUK.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

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STATE OF KERALA, THROUGH THE
SUB INSPECTOR OF POLICE,
NADAPURAM POLICE STATION,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**CRL.M.C.NO. 248 OF 2007**

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**Dated this the 1st day of February, 2007**

**ORDER**

The petitioner faces indictment in a prosecution, inter alia, under the provisions of the P.D.P.P. Act. The case was registered in 2004. The petitioner was allegedly not aware of the registration of the case against him. He was not served. In these circumstances, he could not/did not appear before the learned Magistrate. He faces the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing him. The petitioner is willing to surrender before the learned Magistrate. But he apprehends that the learned Magistrate may not consider his application for bail on merits, in accordance with law and expeditiously. He has hence come to this Court with a prayer that directions under Sec.482 of the Cr.P.C. may be issued in his favour to the learned Magistrate to release him when he appears and applies for bail.

2. I find no merit in the prayer. It is for the petitioner to appear before the learned Magistrate and explain to the

learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

**(R. BASANT, JUDGE)**

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P.S. to Judge